

Historic, archived document

Do not assume content reflects current scientific knowledge, policies, or practices.

Reserve
1
F765Ho

UNITED STATES
DEPARTMENT OF AGRICULTURE
LIBRARY



Reserve
BOOK NUMBER

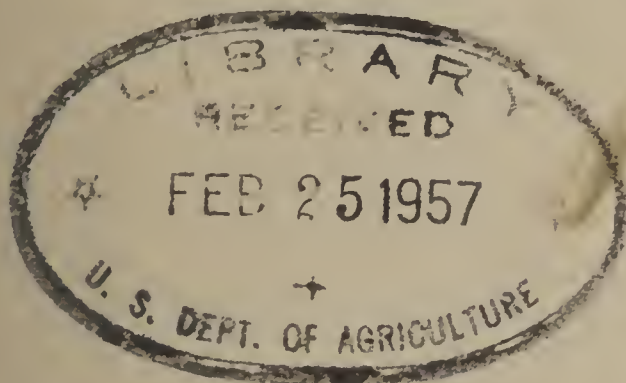
1
F765Ho

916495

U. S. DEPARTMENT OF AGRICULTURE : FOREST SERVICE

HENRY S. GRAVES, Forester

HOMESTEADS IN THE NATIONAL FORESTS



HOMESTEADS IN THE NATIONAL FORESTS.

Lands included in National Forests may be secured for homestead purposes only in accordance with the act of June 11, 1906, which limits entries to not over 160 acres. The law is as follows:

AN ACT TO PROVIDE FOR THE ENTRY OF AGRICULTURAL LANDS WITHIN FOREST RESERVES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture may in his discretion, and he is hereby authorized, upon application or otherwise, to examine and ascertain as to the location and extent of land within permanent or temporary forest reserves, except the following counties in the State of California: Inyo, Tulare, Kern, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego; which are chiefly valuable for agriculture, and which, in his opinion, may be occupied for agricultural purposes without injury to the forest reserves, and which are not needed for public purposes, and may list and describe the same by metes and bounds, or otherwise, and file the lists and descriptions with the Secretary of the Interior, with the request that the said lands be opened to entry in accordance with the provisions of the homestead laws and this act.

Upon the filing of any such lists or description the Secretary of the Interior shall declare the said lands open to homestead settlement and entry in tracts not exceeding one hundred and sixty acres in area and not exceeding one mile in length, at the expiration of sixty days from the filing of the list in the land office of the district within which the lands are located, during which period the said list or description shall be prominently posted in the land office and advertised for a period of not less than four weeks in one newspaper of general circulation published in the county in which the lands are situated: *Provided*, That any settler actually occupying and in good faith claiming such lands for agricultural purposes prior to January first, nineteen hundred and six, and who shall not have abandoned the same, and the person, if qualified to make a homestead entry upon whose application the land proposed to be entered was examined and listed, shall, each in the order named, have a preference right of settlement and entry: *Provided further*, That any entryman desiring to obtain patent to any lands described by metes and bounds entered by him under the provisions of this act shall, within five years of the date of making settlement, file, with the required proof of residence and cultivation, a plat and field notes of the lands entered, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of such lands, which shall be distinctly marked by monuments on the ground, and by posting a copy of such plat, together with a notice of the time and place of offering proof, in a conspicuous place on the land embraced in such plat during the period pre-

scribed by law for the publication of the notice of intention to offer proof, and that a copy of such plat and field notes shall also be kept posted in the office of the register of the land office for the land district in which such lands are situated for a like period; and further, that any agricultural lands within forest reserves may, at the discretion of the Secretary, be surveyed by metes and bounds, and that no land entered under the provisions of this act shall be patented under the commutation provisions of the homestead laws, but settlers, upon final proof, shall have credit for the period of their actual residence upon the lands covered by their entries.

SEC. 2. That settlers upon lands chiefly valuable for agriculture within forest reserves on January first, nineteen hundred and six, who have already exercised or lost their homestead privilege, but are otherwise competent to enter lands under the homestead laws, are hereby granted an additional homestead right of entry for the purposes of this act only, and such settlers must otherwise comply with the provisions of the homestead law, and in addition thereto must pay \$2.50 per acre for land entered under the provisions of this section, such payment to be made at the time of making final proof on such lands.

SEC. 3. That all entries under this act in the Black Hills Forest Reserve shall be subject to the quartz or lode mining laws of the United States, and the laws and regulations permitting the location, appropriation, and use of the waters within the said forest reserves for mining, irrigation, and other purposes; and no titles acquired to agricultural lands in said Black Hills Forest Reserve under this act shall vest

in the patentee any riparian rights to any stream or streams of flowing water within said reserve; and that such limitation of title shall be expressed in the patents for the lands covered by such entries.

SEC. 4. That no homestead settlements or entries shall be allowed in that that portion of the Black Hills Forest Reserve in Lawrence and Pennington Counties in South Dakota except to persons occupying lands therein prior to January first, nineteen hundred and six, and the provisions of this act shall apply to the said counties in said reserve only so far as is necessary to give and perfect title of such settlers or occupants to lands chiefly valuable for agriculture therein occupied or claimed by them prior to the said date, and all homestead entries under this act in said counties in said reserve shall be described by metes and bounds survey.

SEC. 5. That nothing herein contained shall be held to authorize any future settlement on any lands within forest reserves until such lands have been opened to settlement as provided in this act, or to in any way impair the legal rights of any bona fide homestead settler who has or shall establish residence upon public lands prior to their inclusion within a forest reserve.

Approved June 11, 1906.—(34 Stat., 233.)

NOTE.—Subsequent legislation has removed the restrictions placed on listing land in Lawrence and Pennington Counties, S. Dak., and all the counties in California named in the act excepting San Luis Obispo and Santa Barbara.

**REGULATIONS OF THE DEPARTMENT OF AGRICULTURE GOVERNING
THE CLASSIFICATION AND LISTING OF LANDS UNDER THE FOREST
HOMESTEAD LAW, EFFECTIVE OCTOBER 1, 1917.**

REGULATION L-50. Under authority conferred by law the Secretary of Agriculture will examine and ascertain the location and extent of lands within permanent or temporary National Forests which are chiefly valuable for agriculture, and which, in his opinion, can be occupied for agricultural purposes without injury to the National Forests and which are not needed for public purposes, to the end that they may be listed with the Secretary of the Interior for opening to settlement and entry under the homestead laws applicable in the National Forests. Such lands may be listed either independently or on application.

REG. L-51. Applications under the act of June 11, 1906, must be in writing, must be dated, must give the address of the applicant, and must be signed and certified to by him in the presence of a forest supervisor, acting supervisor, ranger, or assistant ranger, who may when it appears necessary require the applicant to furnish a signed description of the character and location of the land. The application will be returned unless the certificate shows that the applicant has been upon the land applied for and is familiar with its character. Exceptions may be made to this rule when the land applied for has already been examined

and classified as agricultural or when it is shown to the satisfaction of the district forester that certification before a forest officer would result in unnecessary hardship or expense. If the tract applied for is covered by a public-land survey, it must be described by reference to subdivisions, section, township, and range within which it is located. If the tract is not covered by a public-land survey, it must be described by reference to natural objects, streams, or improvements with sufficient accuracy to identify it. Applications must be filed with the district forester of the district in which the tract applied for is situated, excepting that applications for land in the National Forests of Alaska should be filed with the forest supervisor at Ketchikan, Alaska. An application which is not in the form prescribed above will be returned to the applicant for completion. Priority of application will be determined by the order in which complete applications are filed with the proper officer in the form prescribed herein.

REG. L-52. The Secretary of Agriculture will not pass upon the qualifications under the homestead laws of applicants for the examination and listing of lands under the act of June 11, 1906, but reserves the right to refuse to examine and list for applicants who are clearly not qualified to make entry under the homestead law.

Only one application for a tract of land will be recorded. If the applicant subsequently withdraws his application

the land will nevertheless be examined, and if found listable will be opened to entry without naming a preferred applicant. No applications will be accepted for lands included in a classification project after work on the project has begun, but all lands in the project will be examined and all listable areas will be recommended for restoration to entry at the earliest practicable date.

REG. L-53. The rejection by the district forester of an application under the act of June 11, 1906, in the first instance or after a review of the case by him, shall be final unless the applicant shall, within 30 days after receipt of the district forester's decision (in which will be stated the grounds for such rejection), file with the district forester a petition for review of such decision by the forester.

Every petition for review shall state definitely in writing the grounds in the record upon which it is based and may be accompanied by such argument as the petitioner desires to submit. If the forester affirms the action of the district forester, the records and papers in the case will be sent to the Secretary of Agriculture for his action, whose action will become final and the case closed.

If any purported appeal or petition for review is received by the forester or the Secretary which recites or alleges new matter not in the record when before the district forester and apparently sufficient to affect the judgment in the case, it will be forwarded to the district forester for his consideration. If upon the reconsideration of the case in the light

of new matter the district forester changes his action and decides to list a portion of the land, the case will take its regular course; but if the district forester's conclusion is still to refuse listing, the records and papers in the case will be returned to the forester for consideration of the appeal or petition.

In the interest of equal opportunity, and to prevent favoritism or the possible misuse by forest officers of official information regarding newly established evidence, changes in policy, or newly discovered errors in survey, no application for land which has been classified and segregated as nonlistable will be recorded or given a preference right except as hereinafter provided. Where evidence is presented by any one, sufficient to raise a reasonable doubt of the correctness of such classification, a reexamination will be ordered, and if the land is found to be chiefly valuable for agriculture and not needed for public purposes it will be listed for homestead entry without a preferred applicant being named, unless, in the opinion of the Secretary of Agriculture, the naming of a preferred applicant is necessary to protect substantial equities. In the absence of such substantial equities appeals for personal preference will not be considered.

REG. L-54. All applications by Indians for allotments of lands within the National Forests, under section 31 of the act of June 25, 1910 (36 Stat. 853), which are submitted

to the Secretary of Agriculture, in order that he may determine whether the land applied for is more valuable for agriculture or grazing than for the timber found thereon, must be made in the form prescribed by the regulations of the Secretary of the Interior governing Indian allotments on National Forests.

REG. L-55. Either of the following acts or conditions will constitute abandonment of an application:

1. Failure of the applicant to answer within 60 days written inquiry from the examiner, supervisor, or district office, addressed to the applicant's last address of record, answer to which is necessary to a proper disposal of the case.

2. Failure of the applicant to request reconsideration or to appeal within 30 days or within such longer time as may be specified by the district forester in his letter to the applicant, at his last known address of record, proffering to list a part of the land applied for, with explanation as to why the remainder of the area can not be listed.

3. Entry by the applicant under some law requiring residence on land not contiguous to that applied for.

REG. L-56. An application for land embraced in a subsisting unperfected entry will be returned to the applicant without recording unless it sets forth the fact that the applicant has initiated a contest against the entry and who, but for the fact of the land being within a National Forest, would succeed to the rights granted by section 2

of the act of May 14, 1880 (21 Stat. 140), as amended by the act of July 26, 1892 (27 Stat. 270), in which case a notation will be made upon the record of the receipt of such application and of the pending contest. The application will then be returned to the applicant with the statement that if the contest results in cancellation of the entry the application may be reinstated as of the date of final conclusion of the contest if filed within 30 days succeeding the period in which the contestee has right of appeal. Such application will, however, confer no right upon the applicant unless the land is finally listed or eliminated from the forest.

REG. L-57. In the event of the death of an applicant not a settler under the act of June 11, 1906 (34 Stat. 233)—

1. If the land has not been examined, the application will lapse and the case will be closed.

2. If the land has been examined and found listable, it will be listed without naming any person in the listing letter, unless the deceased applicant under a special use permit had in good faith made substantial improvements on the land, in which case the widow, if there be one, and, if not, such qualified member of his family as may be designated by all the heirs at law of the deceased applicant, may be named in the listing letter as the one to whom the land is listed.



U S DEPARTMENT OF AGRICULTURE
OFFICE OF INFORMATION

LIBRARY

★ MAY 4 - 1931 ★

PLEASE RETURN TO
LIBRARY

